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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/589,973
Filing Date: June 08, 2000
Appellant(s): HANSEN ET AL.

John E. McGarry
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 13, 2008 appealing from the Office action mailed January 8, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,576,282	Miracle	11-1996
5,500,977	McAllise et al	3-1996

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over McAllise et al (5,500,977) in view of Miracle et al (5,576,282).

McAllise et al teach that it is well known that when an extracting cleansing device (10) is operating in cleansing mode, warm moist exhaust air (610) is discharged through the discharge nozzle (644) whereby the cleaning fluid is atomizingly distributed throughout the discharged air and conveyed thereby to the surface being cleaned and cleaning solution is recovered from the surface with the suction (70) and placed in a recovery tank (50). Please refer to figure 8B and col. 12, lines 11-26.

McAllise et al do not disclose an oxidizing agent admixed with said cleansing solution.

Miracle et al teaches a color safe bleaching composition comprising a peroxygen source such as a peracid compound selected from the group consisting of percarboxylic acids and salts, percarbonic acids and salts, perimidic acids and salts, peroxymonosulfuric acids and salts, and mixtures thereof or perborate compounds, percarbonate compounds, perphosphate compounds and mixtures thereof and a bleach activator, wherein said bleach activator is selected from the group consisting of tetraacetylenethylenediamine, sodium decanoyloxybenzene sulfonate, sodium nonoyloxybenzene sulfonate, sodium octanoyloxybenzene sulfonate, (6-cotanamido-

caproyl)oxybenzenesulfonate, (6-nonanamido-caproyl)oxybenzenesulfonate, (6-decanamidocaproyl)-oxybenzenesulfonate, and mixtures thereof (col. 37, lines 34-57). Moreover, Miracle et al teach the preferred embodiment may contain perfumes and is good for use in laundry detergent especially; liquid fine-fabric detergents, machine dishwashing agents and car or carpet shampoos (col. 11, lines 19-46). The use of acrylic/maleic copolymer and glycols is also suggested (col. 21, lines 31-52 and col. 24, lines 1-21).

It would have been obvious to one of ordinary skill in the art to include the oxidizing agents of Miracle et al because Miracle et al teach that oxidizing agents or bleaches are particularly desirable for stain removal, dingy fabric clean-up, and whitening and sanitization properties in carpet cleaning solutions. Therefore, in view of the teachings of Miracle et al it would have been obvious to include an oxidizing agent of Miracle et al to the cleansing solution and device of McAllise et al because only beneficial and/or synergistic effective cleaning would have been obtained in the absence of a showing to the contrary.

2. Claims 2-10, 12-16, 18-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (5,987,696) in view of Miracle (5,576,282).
3. Wang et al disclose a carpet-cleaning machine comprising a wand providing airflow having a suction force and a cleaning fluid having a pressure (claim 1). Wang et al further disclose that said machine comprises a cleaning fluid reservoir containing said cleaning fluid and a heater which heats the cleaning fluid (claim 4) and wherein said

wan dispenses said cleaning fluid and said suction force recovers spent cleaning solution (claims 5 and 6).

4. Wang is silent with respect to the oxidizing agent and heating the cleaning solution prior to admixing with the oxidizing agent.

5. Miracle et al teaches a color safe bleaching composition comprising a peroxygen source such as a peracid compound selected from the group consisting of percarboxylic acids and salts, percarbonic acids and salts, perimidic acids and salts, peroxymonosulfuric acids and salts, and mixtures thereof or perborate compounds, percarbonate compounds, perphosphate compounds and mixtures thereof and a bleach activator, wherein said bleach activator is selected from the group consisting of tetraacetylenediamine, sodium decanoyloxybenzene sulfonate, sodium nonoyloxybenzene sulfonate, sodium octanoyloxybenzene sulfonate, (6-cotanamido-caproyl)oxybenzenesulfonate, (6-nonanamido-caproyl)oxybenzenesulfonate, (6-decanamidocaproyl)-oxybenzenesulfonate, and mixtures thereof (col. 37, lines 34-57). Moreover, Miracle et al teach the preferred embodiment may contain perfumes and is good for use in laundry detergent especially; liquid fine-fabric detergents, machine dishwashing agents and car or carpet shampoos (col. 11, lines 19-46). The use of acrylic/maleic copolymer and glycols is also suggested (col. 21, lines 31-52 and col. 24, lines 1-21).

6. It would have been obvious to one of ordinary skill in the art to include the oxidizing agents of Miracle et al because Miracle et al teach that oxidizing agents or bleaches are particularly desirable for stain removal, dingy fabric clean-up, and

whitening and sanitization properties in carpet cleaning solutions. Moreover, Miracle et al teach that said oxidative solutions are heated to temperatures in excess of 60 degrees Celsius (col. 1, lines 40-45). Therefore, in view of the teachings of Miracle et al it would have been obvious to include an oxidizing agent of Miracle et al to the cleansing solution and device of Wang et al because only beneficial and/or synergistic effective cleaning would have been obtained in the absence of a showing to the contrary. With respect to the step of heating the cleansing solution prior to admixing with the oxidizing agent, Miracle et al teach that oxygen bleaching products are extremely temperature rate dependent and the colder the solution in which they are employed, the less effective (col. 1, lines 29-31) and bleach activator are effective at somewhat warmer temperature of 40 –60 degrees Celsius (col. 1, lines 40-45). Accordingly, it would have been obvious to the skilled artisan to add the oxidizing agent after the heating of the cleansing solution because the skilled artisan would have wanted the machines cleansing solution to become heated to a desirable temperature before adding the oxidizing agent so that the effectiveness of the oxidizing agent would not be limited, in the absence of a showing to the contrary and in view of the teachings of Miracle.

7. Claims 2-10, 12-16, 17-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over McAllise et al (5,987,696) in view of Miracle (5,576,282).

McAllise et al teach that it is well known that when an extracting cleansing device (10) is operating in cleansing mode, warm moist exhaust air (610) is discharged through the discharge nozzle (644) whereby the cleaning fluid is atomizingly distributed

throughout the discharged air and conveyed thereby to the surface being cleaned and cleaning solution is recovered from the surface with the suction (70) and placed in a recovery tank (50). Please refer to figure 8B and col. 12, lines 11-26.

McAllise et al do not disclose an oxidizing agent admixed with said cleansing solution.

Miracle et al teaches a color safe bleaching composition comprising a peroxygen source such as a peracid compound selected from the group consisting of percarboxylic acids and salts, percarbonic acids and salts, perimidic acids and salts, peroxymonosulfuric acids and salts, and mixtures thereof or perborate compounds, percarbonate compounds, perphosphate compounds and mixtures thereof and a bleach activator, wherein said bleach activator is selected from the group consisting of tetraacetylenethylenediamine, sodium decanoyloxybenzene sulfonate, sodium nonoyloxybenzene sulfonate, sodium octanoyloxybenzene sulfonate, (6-cotanamido-caproyl)oxybenzenesulfonate, (6-nonanamido-caproyl)oxybenzenesulfonate, (6-decanamidocaproyl)-oxybenzenesulfonate, and mixtures thereof (col. 37, lines 34-57). Moreover, Miracle et al teach the preferred embodiment may contain perfumes and is good for use in laundry detergent, specifically, liquid fine-fabric detergents, machine dishwashing agents and car or carpet shampoos (col. 11, lines 19-46). The use of acrylic/maleic copolymer and glycols is also suggested (col. 21, lines 31-52 and col. 24, lines 1-21).

It would have been obvious to one of ordinary skill in the art to include the oxidizing agents of Miracle et al because Miracle et al teach that oxidizing agents or

bleaches are particularly desirable for stain removal, dingy fabric clean-up, and whitening and sanitization properties in carpet cleaning solutions. Moreover, Miracle et al teach that said oxidative solutions are heated to temperatures in excess of 60 degrees Celsius (col. 1, lines 40-45). Therefore, in view of the teachings of Miracle et al it would have been obvious to include an oxidizing agent of Miracle et al to the cleansing solution and device of Wang et al because only beneficial and/or synergistic effective cleaning would have been obtained in the absence of a showing to the contrary. With respect to the step of heating the cleansing solution prior to admixing with the oxidizing agent, Miracle et al teach that oxygen bleaching products are extremely temperature rate dependent and the colder the solution in which they are employed, the less effective (col. 1, lines 29-31) and bleach activator are effective at somewhat warmer temperature of 40 –60 degrees Celsius (col. 1, lines 40-45). Accordingly, it would have been obvious to the skilled artisan to add the oxidizing agent after the heating of the cleansing solution because the skilled artisan would have wanted the machines cleansing solution to become heated to a desirable temperature before adding the oxidizing agent so that the effectiveness of the oxidizing agent would not be limited, in the absence of a showing to the contrary and in view of the teachings of Miracle.

(10) Response to Argument

8. Appellant argues that there is no disclosure in McAllise et al of heating the air and the air from the fan motor is not heated nor does it heat the solution and further he alleges that the “warm moist” air is not a relative term.

The examiner contends and respectfully disagrees because McAllise et al specifically teach that warm moist exhaust air is discharged through the discharge nozzle whereby the cleaning fluid is atomizingly distributed throughout the discharged air and conveyed thereby to the surface being cleaned (col. 12, lines 11-26). Moreover, McAllise et al teach that the motor 610 generates the warm air wherein said warm air and the cleaning solution is discharged through the nozzle 65 and conveyed on the surface to be cleaned. Moreover, appellant argues that the fan motor and not the motor discharges air to the motor. The examiner contends that regardless of what motor is discharging air it is nevertheless warm moist air that is exhausted. Therefore, the mixture will be heated or warmed by the air in the fluid distributor that is positioned within the discharged nozzle, which encompasses heating or warming the solution. Moreover, applicant does not specify any degree of temperature with respect to the heated air temperature. Further, appellant argues that the warm air of McAllise is not a relative term, however, appellants claims state the term "heated" air which appears to be synonymous to McAllise et al warm air recitation. Accordingly, in the absence of a showing to the contrary, one skilled in the art would view the descriptions warm and heated as similar, in the absence of a showing to the contrary and further in light of the claims being read in their broadest context.

Appellant argues that there is no disclosure of heating air before the step of mixing the admixture with heated air.

The examiner contends and respectfully disagrees because McAllise et al specifically teach and discloses that the air is warmed by the motor 610 prior to admixing with the cleaning solution at the discharge nozzle (col. 12, lines 11-26).

Appellant further argues that Wang and Miracle '282 do not teach the limitation of heating the cleaning solution before admixing step to heat the admixture.

Again, Miracle et al teach that oxygen bleaching products are extremely temperature rate dependent and the colder the solution in which they are employed, the less effective (col. 1, lines 29-31) and bleach activator are effective at somewhat warmer temperature of 40 –60 degrees Celsius (col. 1, lines 40-45). Accordingly, it would have been obvious to the skilled artisan to add the oxidizing agent after the heating of the cleansing solution because the skilled artisan would have wanted the machines cleansing solution to become heated to a desirable temperature before adding the oxidizing agent so that the effectiveness of the oxidizing agent would not be limited, in the absence of a showing to the contrary and in view of the teachings of Miracle.

Appellant further argues that McAllise et al and Miracle '282 do not teach the limitation of heating the cleansing solution before admixing step to heat the admixture.

With respect to the step of heating the cleansing solution prior to admixing with the oxidizing agent, Miracle et al teach that oxygen bleaching products are extremely temperature rate dependent and the colder the solution in which they are employed, the less effective (col. 1, lines 29-31) and bleach activator are effective at somewhat warmer temperature of 40 –60 degrees Celsius (col. 1, lines 40-45). Accordingly, it

would have been obvious to the skilled artisan to add the oxidizing agent after the heating of the cleansing solution because the skilled artisan would have wanted the machines cleansing solution to become heated to a desirable temperature before adding the oxidizing agent so that the effectiveness of the oxidizing agent would not be limited, in the absence of a showing to the contrary and in view of the teachings of Miracle.

The examiner further contends that appellants' assertion that the prior art of record must "demonstrate the disclosure" of the claimed limitation may come in a variety of forms such as common sense why one skilled in the art would have heated the cleansing solution prior to admixing with the admixture. Therefore, it is the examiner's position the "heating", which encompasses setting the solution in the sun, and admixing the oxidizing agent, which the prior art teaches is effective at temperatures of 40-60 degrees Celsius, would have been obvious at the time the invention was made and in the absence of unexpected results commensurate in scope with the claimed invention.

*An obviousness determination is not the result of a rigid formula disassociated from the consideration of the facts of a case. Indeed, the common sense of those skilled in the art demonstrates why some combinations would have been obvious where others would not. See KSR Int'l Co. v. Teleflex Inc., 550 U.S. ___, 2007 WL 1237837, at *12 (2007) ("The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.")*

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Art Unit: 1796

Respectfully submitted,

/Necholus Ogden, Jr./

Conferees:

/Harold Y Pyon/

Supervisory Patent Examiner, Art Unit 1796

/Gregory L Mills/

Supervisory Patent Examiner, Art Unit 1700